COURT DECISION ON 8 HOUR LAW ASKED

Atchison Railroad Files Petition for Injunction in Kansas City.

READY TO GIVE BOND

Says Measure Is Merely Arbitrary Increase in Men's Wages.

RANGAS CITY, Mo., Nov. 9 .- A pet tion to enjoin the Federal District Attorney and "labor leaders" from putting the Adamson eight hour law into effect was filed in the Federal district court of Kansas City, Kan., late to-day in the name of the Atchison, Topeka and Santa Fe Railroad.

The bill calls attention to agreements with train employees, none of which, it says, contemplates that the employee declares that, owing to the nature of train service, the trip in terms of hours or mileage is preferred by the men as

the basis of compensation. defendants are Fred Robertson The defendants are Fred Robertson, United States District Attorney for the District of Kansas, and several train service employees, including W. W. Hutton, a general chairman of the Railway Conductors; W. T. Keady, a general chairman of the Brotherhood of Locomotive Engineers; W. C. Keiser, a general chairman of the Brotherhood of Locomotive Firemen and Enginemen, and F. A. Hobble, a vice-chairman of the Brotherhood of Railroad Trainmen.

The bill shows that the company has approximately 7,200 employees engaged as engineers, firemen, conductors, brakemen and flagmen in the operation of its

men and flagmen in the operation of its trains and that substantially all such employees are members of the above mentioned labor orga, zation and have common interest with the employees are named as defendants.

Agreements With the Men.

Reference is made to the agreements with these labor organizations respect-ing compensation and conditions of emnt of train service employees. The

of said agreements contemplates that an employee shall work a fixed number of hours per day; that all of said agreements contemplate, and the seculiarities of railroad train service necessitate, that employees engaged in the operation of a train shall remain on duty until the train reaches the terminal where such train employees re-side, or can be accommodated with lodg-ing between trips, where the incoming employees can be relieved and replaced by other employees, where there are tracks upon which the train can, without blocking the main tracks, remain while the transfer of crews is taking place, the transfer of crews is taking place, and where they are shops, houses, turn-tables and tracks for the care of locomotives so as to relieve the incoming locomotive for cleaning and repair, and so as to replace it with another locomotive which has been prepared for hauling the train beyond that terminal. In other words, complainant says that said employees are and must be required to perform the piece of work assigned to them: that is, to accompany their train

them; that is, to accompany their train until it reaches the end of the run to which they are assigned."

The bill then shows that the primary basis of compensation is the trip and is measured, generally speaking, by mile-age, and that so long as the trip is made at an agreed rate of speed, or in some cases within a specified schedule time, there is no payment except for the mileage, and that payment by the hour is enly a supplementary form of payment for any excess time that may be re-quired when the agreed rate of speed or the agreed schedule time is not main-

There are also various supplementary bases of compensation for delays at terminals, for incidental switching, for loading and unleading live stock or mathe primary mileage basis.

han they have ever been before; that those wages vary greatly as to different The Espagne's passengers behaved \$1,000; than they have ever been before; that and a French steamship.

The Espagne's passengers behaved in the same class, and that the rate of wages on one railroad are different in a great many particulars from the rates of wages on other railroads; that see- Laurent learned that the damaged of the Adapton Act of capable of stranger, realled no assistance in face of pital receives \$1,000; Harriet E. Dunham, godehild, \$1,000. The rector and members of Trinity Church. New Rochelle, receive \$3,500, the income to be used to repair and preserve the Davenport and Thorne commended that the damaged commended that the damaged tion 3 of the Adamson act if capable of application is a mere arbitrary increase in wages without reference to the question whether existing wages are high or with thanks. Both ships proceeded, the est increase to the employee who now enjoys the highest wages and the low-est increase to the employee who now

has the lowest wares.

Moreover the bill alleges that the act
is unconstitutional and void because it
is not a regulation of commerce, and moreover is a more experiment for the purpose of future decision as to whether there ought to be any lerislation, and secause the act is a violation of the Fifth Amendment in that it arbitrarily and unreasonably deprives the company of its liberty of contract and property without due process of law, and in that it is unworkable and uncertain, and in it unjustly excludes certain rail roads and certain employees from its

Methods of Compensation.

By way of illustrating the unworkable character of the act the bill sets up in considerable detail the present methods of compensation. It shows that conductors and brakemen in through and irregular freight service are paid by the mile and are paid overtime if the mile.

The regular freight service are paid by the Corona.

The regular freight service are paid by the Corona.

The regular freight service are paid by the Corona. than ten miles an hour, each hour of overtime entitling the employee to pay

Conductors and brakemen on local Conductors and brakemen on local of 2330 Valentino avenue, The Bronx; freight trains and mixed trains are paid Michael Conway of 38 Vandewater monthly salaries for making trips on street; Joseph F. Vrabcak of 55 West every working day in the month, and every working day in the month, and are paid overtime if any one trip ex-ceeds ten hours. Conductors and brake-men in passenger service are paid monthly salaries, according to the amount of mileage a month. Engineers

and firemen are paid by the 100 miles.

Engineers and firemen in freight service are paid overtime if their mileage tis made at a lower rate of speed than is made at a lower rate of speed than ten miles an hour. Engineers and fire-men in passenger service are paid over-time if the ran exceeds by as much as fifty-nine minutes the schedule time of the run. The bill shows a great variety of rates of pay on different parts of the system, and still greater variety of rates | eral at

sions for supplementary pay. It points out that the changes which

It points out that the changes which
the Adamson act undertook to make are
radically different from the changes proposed by the brotherhoods and enumerates the following differences: The
brotherhoods asked for an increase in
pay in switching and in hostling service,
but the Adamson act is confined solely
to service in the operation of trains.
The brotherhoods provided for the retention of any rates of pay or rules or conditions of employment more favorable The brotherhoods provided for the reten-tion of any rates of pay or rules or con-ditions of employment more favorable than the changes demanded, but the Adamson act does not attempt to pre-serve any such more favorable rates, rules or conditions. The brotherhoods demanded no change as to the passen-ger train service, but the Adamson act relates as fully to that as to other sorts of road service. The brotherhoods pro-vided for the retention of the mileage of road service. The brotherhoods pro-vided for the retention of the mileage basis and that no employee should re-ceive less for 100 miles than he now receives for 100 miles, and for overtime when the speed was less than 12½ miles an hour, but the Adamson act pro-vides an eight hour day as the exclusive

method of measuring compensation.

The bill alleges that the subject matter with which the Adamson act undertakes to deal is one in which compensation for services is in nearly every case reckoned primarily upon the mileage or trip basis, and yet that section 1 of the Adamson act attempts to substitute "as the primary and indeed the exclusive basis" a period of time, to wit, eight hours; and that by reason of the fact that none of its train service is or can be operated upon the basis of a fixed day's labor, and that the wages paid shall work a fixed number of hours, and vary according to numerous conditions which change from day to day, there is no such thing as a standard day's wage

Incapable of Application.

The bill, therefore, declares that the lamson act is not capable of application to the subject matter, that it is un-workable and fails to prescribe any standard whereby the company and other railroad companies can be guided.

The bill indicates throughout that the act is not a limitation upon the hours

of labor, but is an arbitrary attempt to substitute a new and exclusive and un-workable basis for computing compensa-tion, and an arbitrary and unworkable attempt to increase existing wages of part of the train employees.

It prays for a temporary injunction enjoining the District Attorney from in-stituting prosecutions, and enjoining the employee defendants and all other employees from instituting suits, and prays that on final hearing the act be declared to be unconstitutional and void and injunctions be made perpetual.

Ready to Furnish Bond.

It concludes as follows:

Complainant says that it is willing. ending the court's final determination pending the court's final determination as to the validity of said act, to take such steps as may be approved by the court for the purpose of preventing any employee from suffering loss by reason of the temporary injunction herein prayed for; and to that end complainant prays the court to indicate what steps it shall take by way of keeping special accounts, giving bond or otherwise, for the purpose of assuring complete protection to all its employees.

"On the other hand, complainant says that if preliminary and final injunctions

"On the other hand, complainant says that if preliminary and final injunctions e denied and this complainant be comelled, under fear of the penalties pelled, under fear of the penalties pro-vided in said act, to adopt at its own peril some construction of the act in-volving the payment of increased wages

ESPAGNE, DARK, HITS 'UNKNOWN' IN STORM

Liner and Freighter Proceed After Collision in Bay of Biscay.

In these days of prowling submarines rs and freighters steam through war zones with lights doused and life-

low, and operates with respect to any class of train service to give the greatest increase to the employee who now Chaplin, who arrived by the Espagne, is here to star in moving pictures. He has been two years with the artillery, was the early part of the war he was re-

FIVE MADE FIRE CAPTAINS.

damson Also Promotes Twelve Men to Rank of Lientenant.

engineers and nine first grade firemen to lieutenants, appointed fifty-seven probationary firemen and made other promotions. The appointments became effertive at noon yesterday. The new captains are Thomas Mur-tagh of 500 West 158th street; Daniel

McEvoy of 235 West Fifteenth street John J. Mulligan of 116 West Ninetleth street; James H. Light of 238 Fifty-sixth street, Brocklyn; August Beckman Twenty-second street, Whitestone; George F. C. Hauser of 503 Ameterdam avenue: David J. Sullivan of 17 Toledo street, Elmhurst; John P. Duffy of 469 West 163d street; Francis X. Carlin of

to steam engineers.

AT D. A. R. MEETING

dorsement, Blames "Albany Clique."

CONVENTION IS LIVELY TESTIMONY IS AT END

Resolution Putting Quietus on Her Hopes.

ALBANY, N. Y., Nov. 9 .- Refusal of the State D. A. R. to indorse Mrs. John tion precipitated a war of words at the annual convention here to-day.

cellor's room in the State Education Building, where the meeting was held succeeded in adopting a resolution declaring it unwise to indorse any daugheral who had not been a State regent. Norton as the choice of the New York | testimony. State organization, although her friends said they would carry the fight for her

into the national convention Visitors Witness Row.

The controversy was witnessed by two other candidates for national regent gen-eral, Mrs. George C. Squires of St. Paul and Mrs. M. Guernsey of Kansas, who

have the support of their State organ-izations. They did not participate in the discussion.

After the meeting Mrs. Norton de-

"The plotting of the Albany clique was manifested to-day in the adoption of this resolution," Mrs. Norton said. This clique has its eye on the post of

Mrs. William Cummings Story, presi

State Nominations Made.

Officers were nominated to-day and will be elected to-morrow. The present State regent, Mrs. Benjamin F. Spraker of Palatine Bridge, was renominated. to considerable numbers of its employees to considerable numbers of its employees in train service, and if the act shall subvice-regent, Mrs. David B. Page of Ossequently be declared to be invalid, the wego: recording secretary, Mrs. John sequently be declared by this complain-Miss Margaret Burdick of Johnstown; registrar and genealogist, Mrs. Frederick Vates of Rochester; historian, Mrs. Frances W. Roberts of Utica; parliamentarian, Miss Ellen Dunn of Fort Plain; chaplain, Mrs. Frank P. Dow of Rochester; auditors, Mrs. Alonzo B. Foster of Fonda and Mrs. Frank Burton of Gloversville; members of the advisory board, Mrs. Samuel L. Munson of Albany, Mrs. Samuel Ver Planck of Beacon, Miss Stella Broadhead of James. Miss Margaret Burdick of Johnstown Beacon, Mise Stella Broadhead of James-town, Mrs. William R. Stuart of New York, Mrs. William Daniels of Ogdensburg and Mrs. Elizabeth M. Blakely o

> NEW ROCHELLE TO GET PARK. Property Willed to City by Mrs.

cemetery plot. The New Rochelle Hos-pital receives \$1,000; the New York Historical Society is bequeathed por-traits of the decedent's mother and and the Metropolitan Museum

"NEAR DETECTIVE" ARRESTED. Gliedman Had the Paraphernalia but That Was All.

clerk by occupation, picked the wrong persons before whom to pose as a detec-tive. He told two city detectives that he Itobert Adamson. Fire Commissioner, was in the same business as they were, sesterday promoted five lieutenants to the rank of captain, raised three steamer ball for impersonating an officer and

he was attached to "Lieut. Dick McKen

Thomas Murstreet; Daniel
avenue, Elimavenue, Elmavenue, Elmcharacter of Deut, Dick McKenma's pickpocket aquad."
"You're not a detective," said Riley.
"Yes, I am." expostulated Gliedman,
and produced a shield of a Kings county
detective, a pair of handcuffs, a police Sullivan of 52 Lamont avenue, Elm-hurst: Thomas Bowe of 1737 Cropsey and produced a shield of a Kings county avenue, Brooklyn: Patrick J. Marron detective, a pair of handcuffs, a police of 503 West 169th street, and Frederick whistle, a signal box key, a revolver and Heckendom of 38 Ferguson street, a notebook filled with names of men he The new lieutenants are George E. pleaded guilty to a charge of impersona-

CEILING FALLS; 2 WOMEN HURT. Victims Burled Under Debris at 216

East 122d Street. A ceiling on the top floor of a six stor tenement at 216 East 122d street fell yesterday, burying two women under a pile of debris and seriously injuring both

West 163d street; Francis X. Carlin of West 163d street; Brooklyn; John 1947 East Ninth street, Brooklyn; John H. Carmichael of 362 Euclid avenue, Brooklyn, and Evan A. Matison of 96 15 worded avenue, Jamaica.

The women were Mrs. Clara Modell, 25, who lives in the apartment, and Mrs. Sarah Stivack, 26, of the same address, visiting her. The women were who was visiting her. The women were seated at a table when the accident oc-

Japan Shifts Consul-General.

Vancouver, B. C., Nov. 9.—Yasutaro and Jr. Leshin, who answered it, found Mrs. Modell suffering from a fractured stem, and still greater variety of rates pay for engineers and firemen, according to the size of the locomotive. It

CONSPIRACY CHARGE ROFRANO DEFENCE HELPED BY MAYOR

Candidate, Balked of State In- Mitchel Says Investigation Showed Deputy's Reputation Was Very Good.

Mrs. Miller's Opponents Pass Case May Go to the Jury Tonight-Long Charge Is Expected.

Michael A. Rofrano's trial for the murder of Michael Galmari may go to the Miller Norton of Buffalo for election as jury to-night. The State and defence regent general of the national organiza- closed their cases yesterday and Martin Littleton, for Rofrano, began to sum up. He will conclude this morning and there For an hour or more the friends of will remain the summing up by Assist-

The unusual ramifications of this case which resulted from the death of an elec-The opponents of Mrs. Norton finally tion district captain and gambler were again shown yesterday when Mayor Mitchel was called as the last witness ter for the post of national regent gen- for the prosecution. He proved to be a witness for the defence, and Mr. Little-The effect of this was to eliminate Mrs. ton was evidently pleased by the Mayor's

His appearance was made necessary because Rofrano had testified that on February 18, at the time of one of the alleged telephone calls from Rox Cornell's flat to his office in the Municipal Building, he was really in his law office downtown dictating a confidential re-port to Mayor Mitchel. The Mayor had been asked to look up the records of his

Report Not Confidential.

After the meeting Mrs. Norton de-clared that the purpose of the resolution declaring against the indorsement of any daughter for the high national post was chiefly to forestall the possibility of her indorsement.

The Mayor said, however, that it was not a confidential report, but a state-ment of some of Rofrano's views on changes which he (Rofrano) thought should be made in the Street Cleaning

Department.
"There had been some friction in the department," said the Mayor, "and Mr. Rofrano had an idea that he had not had This clique has its eye on the post of national regent general in the future and this desire shaped their actions."

Gov. Whitman addressed the opening session to-day. He was warmly applauded and was congratulated upon the success of his recent campaign. The greeting was delivered by Mrs. Daniel Manning, honorary president N. S. D. A. R.

Mrs. William Cummings Story, presi
The Mayor said that he had not had an opportunity to demonstrate his can opportunity to demonstrate his capacity. He objected to work in the office and thought he would be most useful outside handling men. He had told that to my executive secretary. Mr. Rousseau, and Mr. Rousseau said that he had not had an opportunity to demonstrate his capacity. He objected to work in the office and at thought he would be most useful outside handling men. He had told that the would be most useful outside handling men. He had told that the would be a good plan to hear what Rorrano had an opportunity to demonstrate his capacity. He objected to work in the office and thought he would be most useful outside handling men. He had told that the would be most useful outside handling men. He had told that the would be most useful outside handling men. He had told that the would be most useful outside handling men. He had told that the would be most useful outside handling men. He had told that the had not had no opportunity to demonstrate his capacity. He objected to work in the office and thought he would be most useful outside handling men. He had told that the my definition of the my def

The Mayor said that the papers Ro-frano submitted were in the nature of a personal investigation. He could not give the exact date they were received, but testified that they were handed to him some time between the 17th and 23d of Fabruary. Rofrano and he were of February. Rofrano says he wrote em on the 18th.

Then Mr. Littleton cleverly turned the

Mayor into a character witness for Ro-frano by asking him if he knew what Rofrano's reputation was. Mr. Mitchel said that he did, for at the time he ap-pointed Rofrano to office he had an in-vestigation made as the result of some charges that were preferred against Ro-frano, and that he found the deputy's reputation to be very good.

Rofrano's Motor Trip.

James Knox, a city chauffeur, was slied just before the Mayor took the stand, and said that some time in the winter of 1915 he took Rofrano and Arkell Robert Appleton, Cleveland Mot-Clem Driscoll to Driscoll's home in Mari-fett, C. S. Thompson and Dwight Parthe way back Rofrano stopped at Fiftysixth street or Fifty-seventh street on
Fourteenth avenue, and went to a house.

Joseph Brondini, indicted with RoAdmiral Augustus F. Fechteler, commander of the second division of the frano, lives on Fourteenth avenue, between Fifty-sixth and Fifty-seventh streets, and Montimagno has testified that it was in Brondin's house that he the primary mileage basis.

Revision of Agreements.

It is stated that on March 29, 1916, the four protectheosis demanded a revision of their agreements. Their demands relating to synthing service and to hostling service are not discussed in the bill I contends that the Adamson act does not relate to these services, but for that the value of their freight hours, that all overtime should begin at the expiration of eight hours, that all overtime should begin at the expiration of their and correct that the adams which related to trait service provided that on runs of 190, he so r less over-time in effect.

The Espagne was slightly slift ented that on runs of 190, he so r less over-time in effect.

The bill alleges that the demands should continue in effect.

The bill alleges that the wages of the many instances high, and are now higher than they have ever been before, that the wages of the many instances high, and are now higher than they have ever been before, that those wages vary greatly as to different the property of the benefit of the property of the well that there have ever been before, that they are very least of the property of t WHITE PLAINS, N. Y. Nov. 9 -Ac. saw Rofrano shortly before the nurder. Hangs Himself With Necktic After

W. M. CHASE LEFT \$40,000.

Noted Artist Had \$25,000 in Per sonalty and \$15,000 in Realty. William M. Chase, noted portrait painter and a founder of the American Society of Artists, who died on October 25, made no will, and his widow, Mrs. Alice Gerson Chase, applied to the Surrogate's court yesterday for appointmen as administratrix of the \$40,000 estate which she said he left.

The artist, who lived at 234 East Fifteenth street, had about \$25,000 worth

Philip Gliedman, 20 years old, of 61 of personal property, it was stated, and West 114th street, who admitted yester- the rest in real estate. Six daughters day in West Side court that he was a and two sons survive him.

EX-JUSTICE'S NOTE UNPAID.

ludgment for \$10,411 Filed Against Richard T. Lynch.

judgment for \$10.411 against Rich ard T. Lynch, former Justice of the City Court and Democratic politician, was filed in the Supreme Court yesterday. It was the largest of several judgments totalling \$28,000 which were judgments totalling \$28,000 which were recorded against the Justice at about the time he resigned from the bench. The finding was also against Hannah and Alice C. Lynch of 101 Park avenue.

Velle R. Velle, the plaintiff, stated the largest begins a freed \$190,206; Adeline L. Poillen, sisterdischer large \$1,250,000, and Caroline F. Morrischer large \$1,250,000, and Caroline F. Mor

ment was refused.

FOG DELAYS INCOMING SHIPS. Steamboat Princilla Saved From Grounding Off Battery.

For several hours yesterday morning navigators groped toward berths in one of the thickest November fogs that ever obscured tall towers and stopped side-whoels and propellers in this port.

The Fall River steamboat Priscilla while feeling her way around the Battery from the East to the North River, drifted close to the shoals off the Battery sea wall and whistled for assistance. Tugs helped her to midstream. She did not touch bottom and sailed on schedule in the afternoon.

in the afternoon.

All steamships from foreign ports were delayed in docking from one to three

5 MARINE CORPS GENERALS.

Barnett, Waller, Pendelton, Le jenne and Cole Are Picked. WARHINGTON, Nov. 9.—Cols. George Barnett, L. W. T. Waller, Joseph H. Pendelton, John Lejeune and Ell K. Cole of the Marine Corps were selected to-day to be Brigadler-Generals in the corps, under the authority of the last appropriation bill, which created this grade. Gen. Barnett is now commandant

of the corps and in that position has the rank of Major-General. Mrs. Norton and the advocates of a ant District Attorney Brothers and the policy of non-indorsement debated the charge by Justice Weeks, which will question. Charges of "conspiracy" and probably be long because of the involved nature of the testimony.

WARSHIP NEW YORK TO GET CUP TO-DAY

Award Made by Defence Society for Merit in Battle Practice.

The battleship New York, now at the navy yard in Brooklyn, will receive the American Defence Society trophy cup to-day, as the ship which attained the highest final merit of all vessels of battleship class in the Atlantic fleet in short range battle practice, guns and torpedoes combined, for the year 1915-1916. Dr. David Jayne Hill, formerly United States Ambassador to Germany, will make the presentation on behalf of the

society, and Capt. Charles F. Hughes, commander of the New York, will accept it for the officers and crew. Dr. Hill is now president of the advisory board of the American Defence Society.

The New York's more many transfer The New York's merit mark was 59,750. The battleship Texas was next with a final merit of 59,271, and the Arkansas third with 47,981. The New Yerk's best turret pointers made six hits out of six shots fired in 1 minute 17 seconds, and her best set of five inch gun pointers fired four shots with four hits in twenty-seven seconds.

The American Defence Society trophy is a cup twenty inches high, made of silver and lined with gold. It was made by the Godam Company from a model designed by Caesar Stea and selected from thirty-six models offered in competition at the Beaux Arts Studies. The cup is to be set on the gun deck, as the place most accessible to both officers and

At the ceremonies this afternoon the with Capt. Hughes will take their cus tomary stations in front of the mer addition to Dr. Hill, members of the American Defence Society who will be present are Joseph H. Colt, chairman of the board of trustees; Dr. William T. Hornaday, Henry C. Quinby, Bartlett Arkell, Robert Appleton, Cleveland Mot-

BOY A SUICIDE IN CELL.

Winners in Games Get Trophies From Hands of Commissioner.

Policemen who won prizes at Sheens head Bay last June during the police games received the awards yesterday afternoon in the presence of their rela tives and friends in the trial room at Police Headquarters. Police Commissioner Woods made an address and the presentation.

the first, gold cuff links for second and a stickpin for third, all bearing the coat of arms of the city of New York. It was announced that the fund for the protection of widows and orphans of patrolmen killed in the performance of duty had been increased by \$84,000 as a result of the games. Music at the presentation was furnished by the police orchestra.

MRS. WILSON LEFT \$1,310,358.

Daughter and Grandson Receive Bulk of Estate. Mrs. Caroline A. Wilson, who died

April 19, left a net estate of \$1,310,358, including a collection of valuable paint-ings, according to an appraisal filed yes-

Velie R. Velic, the plaintiff, stared that on June 12, 1916, Lynch, who was son, a friend, \$10,000. Various legacies then Justice, made out a promissory note to him for \$10,300, payable September 15. The note, which was endorsed by the two women, went to protest and Velie said his demand for payable said his demand for payable was refused.

1% PER MONTH ON PLEDGE OF PERSONAL PROPERTY

THE PROVIDENT LOAN SOCIETY OF NEW YORK MANH. TTAN.

Fourth Avenue, cor. 15th Street. Eldridge Street, cor. Rivington St. Seventh Ave., bet. 48th and 49th Sta. Lexington Ave., cor. 114th Street. Grand Street, cor. Clinton Street. East Houston St., cor. Mases St.

BRONX. Courtlandt Ave., cor. 148th Street. BRCOKLYN. graham Avanue, cor. Dabevolse At.
Graham Avanue, cor. Dabevolse At.
Fitkin Avanue, cor. Rocksway Are.
PER CENT. CHARGED ON
LOANS REFAID WITHIN
TWO WEEKS FROM DATE

ALL TSCHAIKOWSKY GIVEN BY STRANSKY

Second Philharmonic Concert Devoted to Music of Famous Russian.

MISCHA ELMAN, SOLOIST

Interesting Performance Violin Concerto at Carnegle Hall.

The second subscription concert of the Philharmonic Society at Carnegie Hall nat evening presented a Tschaikowsky programme. Josef Stransky, conductor of the organization, apparently delights returned when Mrs. Martine was better in all something programmes, and he is mover happier than when he is waving his mover happier than when he is waving his able to support her. Two years later, when she was carning enough to take the child, the sheris, she said, refused to surrender her. The slan. Last evening's concert began with the overture to "The Voyevode," which at any rate had the merit of not being mother.

Tschalkowsky wrote it in 1867. In he opera into pieces. It is even said the convent hat he threw the pieces into the fire. In 1891 he wrote a symphonic ballad on the JAPANESE SOPRANO mubject. He tore that up too. But he orgot to tear up the orchestral parts of both. So we have the overture still with us.

Mischa Elman la Soloist.

The other two numbers on the list were perhaps more important. They were the violin concerto and the fifth symphony. The soloist was Mischn Elman, who is quite as Russian as Tschaikowsky's music.

Away back in 1881 Adolf Brodsky Massient's Tris was given at the produced the concerto in Vienna, Hans Lexington Theatre last Richter conducting, and Dr. Hamslick went to hear it. "The violin is no longer yanked about, it is torn asunder, beaten black and blue. I do not know whether it is possible for any one to conquer these harassing difficulties, but I do know that Mr. Brodsky martyrized his with yellow slavery, lust and finally the hearers as well as himself." Dr. Hanslick further intimated in rather crude earers as well as himself." Dr. Hans-ick further intimated in rather crude tyje that the music was malodorous. Mischa Elman in his maddest moments would not impress one with the idea that he was beating the violin black and blue. His nature is too gentle for that. But perhaps he did "yank" it a little at times, and certainly he did tear asunder the rhythms almost unto the confusion of Mr. Stransky and the orchestra.

Lachrymosity in the Cantilena.

Again in the cantilena passages Mr. Elman became so filled with emotion that his playing acquired a very lachry-mose character. But in the allegri he balanced this by vigorous physical movements which suggested the feasibility of Nijinskylzing the concerto into a ballet tusse.
The audience undoubtedly enjoyed the

exhibition. There was the customary quantity of applause. Commentators on musical doings are told that they should always take note of the applause, and ome always do ; but until an instrument is invented to measure with precision its specific gravity scientific results do not seem to be within reach.

HERSCHMANN HEARD.

Barytone's Recital Not Equal to That of Last Season. Arthur Herschmann, barytone, gave a ong recital at Acolian Hall last eve- New York Alumni Pick J. Lynch ing. He presented an interesting proramme containing unfamiliar sengs by doser, Heyland, Wolkowsky-Biedau, ireville, Spier and Wolf-Ferrari, He also drew upon the settings of Latin

Handel, with accompaniment arranged by the accomplished curator of the musical division of the public library.

Dr. Otto Kinkeldey.

Mr. Herschmann has in the past disclosed some good qualities together with genuinely artistic aims. But last evening he was not in command of his voice, and his tones were often very uncertain in quality, and sonority, especially in the in quality, and sonority, especially in the florid numbers of the first part. He was heard to better advantage in the French ongs, but he did not reach the level of

merit attained last season.

Stielow Public Hearing Nov. 28. ALBANY, N. Y., Nov. 2 .- Gov. Whitman \$100,000 to Amherst College by o-day fixed November 28 as the date Rufus Fratt Lincoln of Plainfield, N. or a public hearing in the case of J., was announced to-day The purpose of the gift is the establishment of a chair prieved several times and who now is under sentence of death for the slaying of Charles D. Phelips in Orleans county in March, 1915. The hearing was granted on application of several persons who have been active in efforts to obtain a new trial for the convicted by the frustees to the newly created program. fessorship.

Coward Shoe

Quality Maintained

At this crisis in the shoe industry, when the cost of

leather is steadily advancing, it requires character and

stability on the part of the manufacturer to meet the

situation without cheapening the quality and value of

It has taken fifty years of hard, conscientious work to

bring the Coward shoe up to its present high standard

of quality and workmanship, and we do not intend to

destroy the reputation gained in a lifetime by tampering

We will not suffer the high standards which have made

these shoes famous to be cheapened or lowered.

Neither will we use imitations or substitutes for leather

Coward shoes in the future, as in the past, will be the

best it is possible to produce, irrespective of cost to us.

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MOTHER AND DANCERS LOSE FIGHT FOR GIRL

Court Orders Rag Picker's Child Sent From Rich Home to Convent.

Elvira Martine, 5 years old, daughter of an Italian rag picker, will leave the plenty of a prosperous home and go to the Dominican Convent of Our Lady of the Romary, according to a decision made by Supreme Court Justice Constan yes-

Agents of the Children's society, on whose report he acted, said that Andre Sherri, who receives a large salary for dancing with his wife at the Strand Roof and Rector's and who is keeping the little girl in his home, is in reality Antonio Macoluso.

The mother of the child, Mrs. Annie Martine of 2206 Second avenue, told the Children's society agents she entrusted the care of her daughter to the dancers, by whom she was employed, with the stipulation that the little girl was to be

she said, refused to surrender her. The Sherris told the court Elvira had been deeded over to them forever by her

On the representation by the Children's society that neither the Sherris nor the mother were fit custodians of the child ne seventies he tore it and the rest of however, Justice Cohalan sent her to

SUCCEEDS AS IRIS

Tamaki Miura Carries Off the Honors in Boston Opera Production.

tichter conducting, and Dr. Hamslick opera is known here through recent vent to hear it. "The violin is no longer hearings, as it was revived near the end clayed," he declared in an article; "It is of the season in April, 1915, at the Met-

the plot an innocent victim. Itahan and a Japanese flavor, and it the varying Japanese scenes it has much to offer to the eye through picturesque coloring. Bringing the opera forward last night, however, was accompanied with some real novelty, as it afforded the Japanese soprano in the company. Tamaki Miura, an opportunity to appear

as the Japanese Iris.

Of her impersonation much might be said, as it was on the whole delightful. With a native grace and beauty of face joys and prolonged sorrows of the little Japanese girl with an accomplished act in action and with much aframatic taste in singing. Her enlectment of the role, was one entirely worthy of the cetturslastic approval given it by the large

spects hardly commendable save the work of Thomas Chalmers as Kyoto, the villain of the plot. Tovin Kittay as the Japanese gentleman teats sang muof his music very hadly. Roberto M-ranzoni conducted with a shifful han good work was done.

GEORGETOWN MEN ELECT.

Pendergast for President.

At a meeting of the Society of the No text by Horat o Parker in his "Hora night, the following officers and directors Novissima." Another contribution was were elected a cantata, "Dalla guerra amorosa," by President, J. Lynch Pendergast; vise a cantata, "Dalla guerra amorosa," by Fresident, J. Lynch Bendergust; vise Handel, with accompaniment arranged presidents, John G. Agar, Walter P. Al

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